

REMARKS

The Examiner has required an election in the present application between:

Group I, claims 1, 3, 4, 5, 6, 7, drawn to a process and bacterial composition;

Group II, claims 8-9, drawn to a food; and

Group III, claims 10-11, drawn to a process including cutting or grinding of a plant to a smaller size and disintegrating a portion of it.

For the purpose of examination of the present application, Applicants elect Group I, claims 1, 3, 4, 5, 6, and 7, with traverse. In this regard, rejoinder of at least Group III is requested, as explained in more detail below.

Election with Traverse

(i) **Rejoinder: Groups I and III**

The Examiner asserts that Group I and Group III lack the same or corresponding special technical features and that Group I has different process steps than Group III (see page 2 of the Office Action). However, Applicants respectfully submit that claims 1 and 10 have the same specific technical feature, e.g., to produce an antibacterial substance from plant by disintegrating the plant tissue with an enzyme capable of acting on protopectin and releasing the antibacterial substance from the plant tissue.

As can be seen from the present specification at page 3, lines 15-22, the antibacterial substance is solubilized from middle lamellae (which is composed of protopectin, and bonds plant cells and forms plant tissue) when the enzyme acts on the plant tissue. Therefore, it is obvious that instantly pending claim 10 is directed to single plant cells that are isolated when the

enzyme acts on protopectin in middle lamellae (in plant tissue) during the process of pending claim 1.

Further, these claims 1 and 10 share or contain the same steps, which are cutting or grinding the plant into an appropriate size and disintegrating at least a part of tissue of the plant for releasing the antibacterial substance. Thus, claim 10 should be rejoined with elected claim 1 (or the claims of Group I).

(ii) Improper Restriction: Groups I and II

The Examiner also asserts that Group II is a different product than the product of Group I. However, as recited in claim 8, claim 7 is a part of claim 8. Specifically, claim 8 recites: "A food containing the composition according to claim 7...". Therefore, claim 7 is included in Group I and is a composition that contains the antibacterial substance prepared from the process according to claim 1. Applicants add that if a composition itself is novel, any food containing that composition is also novel. Therefore, Applicants respectfully submit that claim 8 is not a different product than that of the claims of Group I, and further request claim 8 should be rejoined with Group I.

Conclusion

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Eugene T. Perez, Registration No. 48,501, at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Application No.: 10/069,182

Docket No.: 0397-0441P

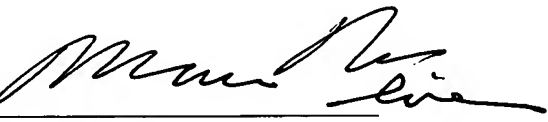
Art Unit 1651

Response to Restriction Requirement of December 13, 2005

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: January 13, 2006

Respectfully submitted,

By 
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